



Review of Clergy Terms of Service : A Brief Introduction

BRIEFING

Introduction

Clergy conditions of service have been under review since the Department of Trade and Industry initiated its discussion of “a-typical workers” in 2002. The Archbishops’ Council’s Review Group (chaired by Professor David McClean) issued its first report in 2004 (GS 1527), which was widely discussed in dioceses. Part II of the work was reported to the General Synod in February 2005 (GS 1564), and commended for discussion and implementation. The Implementation Group has produced a third paper, revisiting the property issues in the light of General Synod discussion (GS 1593).

Two themes ran through the first Report:-

- Granting employment rights to parochial clergy
- Establishing a new working culture throughout the Church’s ministry

The second report builds on the first, and deals with the position of freehold clergy, and related property issues. Its proposals generated considerable unease in the General Synod debate in February 2005. The third paper looks again at property, accepting that churches and churchyards should remain vested in the incumbent, but proposing that parsonage houses be vested in the Diocesan Parsonage Boards, or in the relevant committee established under the Repair of

Benefice Buildings Measure 1972 (with safeguards to prevent parsonages being regarded as corporate property of the DBF and vulnerable to creditors).

Employment Rights

The Reports recommend that “section 23 rights” (ie, rights granted under s 23 Employment Relations Act 1999) should be granted to all clergy (including freehold incumbents).

These rights would include (amongst many others):-

- Maternity / paternity rights
- Detailed statement of conditions of service
- Access to employment tribunals in case of dispute

In addition, all clergy should be given “common tenure” status (ie, being granted appointments “open-ended until retirement”, in place of the present fixed-term licences; the only fixed-term appointments that would remain would be for specific purposes, such as training posts, or interim posts pending pastoral reorganisation).

Enforcement

There would be system of appraisal and review (see section 4 below), involving the archdeacon, and a series of three panels, with the possibility of



appeal at each point (see Appendix 8 to GS 1527). Secular employment tribunals, rather than the Church's internal discipline tribunals, would deal with irreconcilable disputes; the Church's own Legal Aid Fund would be extended to assist clergy with the cost of bringing claims in the tribunals.

Although the Diocesan Board of Finance would not be the "employer" in strict legal terms (because it is proposed that clergy would continue to the "office-holders" rather than "employees"), the Board would be the respondent to tribunal proceedings brought by clergy.

Change of Working Culture

At present, the clergy's work is nowhere exhaustively defined, and has to be deduced from a number of sources – Scripture, the Canons, the Ordinal and the general law; this would be rationalised into new Clergy Terms of Service Regulations. At the same time, the concept of "canonical obedience" would be updated, in line with current Human Resource practice, to provide a systematic appraisal and support regime.

New concepts of "capability" would be introduced, to deal with cases that indicate poor performance but which would not require formal disciplinary proceedings; bishops, archdeacons and all others involved in clergy oversight would undergo training in HR management.

Regulation

New Regulations will be needed, to replace the existing provisions in the Canons and the Ordinal,

which set out the parameters of clergy service. Careful integration of the 'capability' and 'discipline' systems will be needed, to avoid confusion, overlap and legal expense.

Property

All clergy housing would be vested in the Parsonages Boards or in a "ring-fenced" committee of the DBF (which already has a duty to maintain), in place of the incumbents' "qualified freehold". Church buildings and churchyards would remain vested in the incumbents subject to continuing liability on the part of the PCC to maintain.

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